The Court of Appeals could decide otherwise. I can not answer your question. I do not know what the due process clause is going to say about this now, and nobody else can.

THE CHAIRMAN: Delegate Marion.

DELEGATE MARION: As I understand your reference to Court of Appeals decisions, you are talking about their decisions with a prohibition in the constitution, with the language in the constitution that a person shall not be imprisoned for debt, and to allow these special situations where we do wish to permit imprisonment for debt we have to provide exceptions to that constitutional provision.

Are there states which have no language whatsoever dealing with imprisonment for debt, where somebody has been imprisoned on some other set of facts and that has been challenged in the courts?

DELEGATE KIEFER: My advisor, Ed Smith reminds me of a case I read the headnotes on. It was a case in Vermont, where they have no prohibition against imprisonment for debt, and still in the 1950's where a man was a defendant in a tort case and was imprisoned, and the courts held that this was a proper carrying out of whatever the court's admonition or judgment was and that it did not violate due process. That is the only one I know of offhand.

THE CHAIRMAN: Delegate Marion? Delegate Grant.

DELEGATE GRANT: Chairman Kiefer, during the discussion of this the last time we brought up Article XIII of the federal Constitution, involuntary servitude, what were the Committee's findings about the question of whether you could have any imprisonment clause stand in view of the involuntary servitude clause under the 13th Amendment?

DELEGATE KIEFER: We had a search made of that and found that was not really applicable.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: Mr. Chairman, if you will permit a non-lawyer to come in here, I am moved to ask a question because it seemed to me this was a misuse of the English language.

Your heading is "Imprisonment for Debt", but you do not imprison the man for not supporting his wife or children, or alimony, and so on, because of a debt—you imprison him because he has been in contempt of court.

As a layman I have never quite understood how the law would permit such a thing, but in the interest of the English language, the whole thing is wrong. You are imprisoning people who are not paying alimony, and so on, for contempt of an order of the court, not because they do not pay their debts.

DELEGATE KIEFER: How long have I known you, Delegate Pullen?

DELEGATE PULLEN: Since you were a baby.

DELEGATE KIEFER: That is right, and here I have explained this whole thing and have not gotten it across to you.

Let me do it once more, very easily.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: I understand what you say. Do not take the time for that.

DELEGATE KIEFER: But you miss the point, because you can imprison somebody for contempt of court when in open court a judge, or a judge in any circumstance, awards alimony. What I said was that in a great many cases the alimony or support is arranged by a private agreement between the parties and incorporated into the decision or decree, and in that case the Court of Appeals has held that that is a contract and therefore the failure to carry that out is not the contempt of court kind of contempt that you can be put in jail for, but this is a debt and therefore you cannot imprison for debt under this. This is why this was amended.

THE CHAIRMAN: Delegate Pullen.

DELEGATE PULLEN: With the greatest respect for you and all your family, and not to prolong the argument, I maintain that this is specious reasoning and that it does violence to the English language when you incorporate two separate and distinct ideas into this particular thing.

My own opinion is—I do not know whether you want it or not—that people should not be imprisoned for debt, and I would wipe out all of that stuff about alimony and the other, because that is an indirect way of punishing people for that purpose by legalistic arrangement.

DELEGATE KIEFER: I want to be sure you understand one thing. Section 13